# U.S. Senate Republican Policy Committee

# Legislative Notice

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No. 29

July 23, 1999

## S. Res. 160 — To Restore Enforcement of Rule 16

Calendar No. 226

Senate Resolution 160 was introduced July 22, 1999, and placed directly on the Calendar.

#### NOTEWORTHY

- By unanimous consent, the Senate will begin debate on S. Res. 160 on Monday, July 26 at 11:00 a.m. The agreement provides a total of six hours of debate, equally divided. The agreement also provides that the Senate will vote on the resolution on Monday (perhaps after the 5:30 p.m. vote which has been ordered on another matter).
- Passage of S. Res. 160 is intended to restore former Senate precedents with respect to amendments to appropriations bills. In its entirety, S. Res. 160 provides, "Resolved, That the presiding officer of the Senate should apply all precedents of the Senate under rule 16, in effect at the conclusion of the 103d Congress."
- Under the unanimous consent agreement, the Democratic Leader is entitled to the only amendment, and time for that amendment will come from the six hours on the resolution. That amendment pertains to the authority of conference committees ("scope of conference") and reads, "The presiding officer of the Senate should apply all precedents of the Senate under Rule XXVIII in effect at the conclusion of the 103d Congress."

### HIGHLIGHTS

Senate Resolution 160 refers, without particularity, to "all precedents of the Senate under rule 16," but the precedent that is of foremost concern relates to what is commonly called "legislating on an appropriations bill." Before March 16, 1995, the general rule was that "[a]ny legislative amendment to a general appropriation bill... is not in order, and therefore is subject to a point of order, which, if sustained, rules the amendment out of order." Riddick & Frumin, Senate Procedure 197 (1992). This is a description of the former effect of Rule XVI, paragraph 4. That rule was judged to have been changed by the vote of the Senate on March 16, 1995. On that day, Senator Kay Bailey Hutchison called up an amendment (regarding endangered species) to the Emergency Supplemental Appropriations Act of 1995. A point of order was raised against the amendment, and the Chair sustained the point of order. Senator Hutchison then appealed the ruling

of the Chair and, by a vote of 42-to-57, the decision of the Chair was not sustained. That vote has been interpreted to mean that there is no longer a Rule XVI impediment to legislative amendments on appropriations bills — and that new meaning has been the position of the Senate from March 16, 1995, to this day. S. Res. 160 is intended to restore the vitality of Rule XVI and its precedents.

In March of this year, the Majority Leader said the following about an amendment of his (that was never voted on) that is identical to S. Res. 160:

"... In March 1995, the beginning of the 104th Congress, the Senate overturned a ruling of the Chair with respect to legislation on an appropriations bill. Ever since that March day, Senators have not been able to raise a point of order against certain amendments offered to appropriations bills. Any amendment dealing with matters not addressed in the specific appropriations bill would no longer be subject to a point of order and therefore is always in order, regardless of the subject matter. In this Senator's opinion, once that prohibition was lifted, the appropriations process was weakened by Senators on both sides of the aisle offering nonrelated amendments to very vital and time-sensitive appropriations bills. Having said that, I, along with the chairman of the Appropriations Committee, the ranking minority member and the Democratic leader have been attempting to resolve this and other issues we believe weaken the appropriations process. . . . Therefore, I think it is time for the Senate to take this first step toward strengthening the appropriations process and reinstating what had been a part of the Senate Rules for well over 100 years. The time is now and I hope all Senators will be able to support this initial but important step to a more responsible legislative process."

Prepared by Lincoln Oliphant, 224-2946

RPC Staff Member Kelly Oliver contributed to this Notice.

[Note: Order No. 157 allows certain amendments to be offered to the Agriculture Appropriations Act (S. 1233) without regard to Rule XVI.]

Standing Rules of the Senate, Rule XVI, paragraph 4: "On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill." [Note that S. Res. 160 applies to all of Rule XVI's precedents and not just those of a particular paragraph.]

Standing Rules of the Senate, Rule XXVIII, paragraph 2: "Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon." [Note that the Daschle amendment applies to all of Rule XXVIII's precedents and not just those of a particular paragraph.]